

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

BIPINCHANDRA SHAH,

Petitioner,

- against -

RLI PARTNERS, LIMITED, LIMITED  
LIABILITY COMPANY "INVESTMENT  
LOTTERY COMPANY", LIMITED LIABILITY  
COMPANY "INVESTMENT FINANCIAL  
COMPANY 'METROPOL'", AND  
COMMERCIAL BANK "OBI'EDINENNYI  
INVESTITIONNYI BANK" (LIMITED  
LIABILITY COMPANY),

Respondents.

Civil Action No.: 08 Civ. 4446 (JES)

**PROPOSED ORDER  
CONFIRMING AND  
MODIFYING ORDER  
OF ATTACHMENT**

Petitioner has moved this Court by order to show cause for an order confirming and modifying the ex parte Order of Attachment entered by this Court on May 15, 2008 ("Order of Attachment") against Respondents Commercial Bank "Obi'edinenny Investitsionnyi Bank" (Limited Liability Bank) ("ObiBank") and Limited Liability Company "Investment Financial Company 'Metropol'" ("IFC Metropol") (ObiBank and IFC Metropol together hereafter defined as "Bank Respondents"), pursuant to Rule 64 of the Federal Rules of Civil Procedure and Article 62 of the New York Civil Practice Law and Rules ("CPLR"). Petitioner has shown that (i) he has a claim for a money judgment, i.e., a claim under the New York Convention to confirm and enforce a foreign arbitral award and that it is probable that Petitioner will succeed on the merits; (ii) that Bank Respondents are foreign corporations not authorized to do business in New York; (iii) that the amount demanded from the Bank Respondents exceeds all counterclaims known to the Petitioner; and (iv) that the Order of Attachment should be confirmed and modified to provide that, inter alia, as Garnishee Citibank, N.A. ("Citibank") has identified certain property

belonging to ObiBank within its possession or control ("Attached Funds"), Citibank shall immediately pay the Attached Funds into the registry of the Court to be held in an interest-bearing account until such time as the Court may examine and decide the underlying Petition.

Therefore, for these reasons, as supported by the showings made in the Affidavit of John J. Hay, Esq. sworn to on July 7, 2008 and upon all pleadings and proceedings heretofore had herein, it is hereby ORDERED, that

1. The May 15, 2008 Order of Attachment is valid and is hereby confirmed, extended and remains in full force and effect until this Court directs otherwise.

2. The amount to be secured by the Order of Attachment remains \$5,371,447.21 ("Secured Amount").

3. The scope of the Order of Attachment includes all property in possession or control of any Garnishee as listed in the Order of Attachment belonging to Bank Respondents, as of the date of service on such Garnishee, including any property that has come or will come into a Garnishee's possession or control from that date of service extending indefinitely into the future, up to the Secured Amount.

4. That Garnishee Citibank immediately pay the Attached Funds into the registry of the Court to be held in an interest-bearing account until such time as the Court may examine and decide the underlying Petition. Citibank is to include the case number on all documents or forms of payment made to the Court and include a copy of this order upon delivery of said payment.

5. Service of a copy of this Order upon the Garnishees via facsimile, electronic transmission, overnight courier, express mail, or personal delivery, shall be deemed sufficient service thereof.

6. Service of a copy of this Order and the papers upon which it was based, upon Bank Respondents ObiBank and IFC Metropol via facsimile, electronic transmission, overnight courier, express mail, or personal delivery, shall be deemed sufficient service thereof.

SO ORDERED.

  
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JOHN E. SPRIZZO  
UNITED STATES DISTRICT JUDGE

Dated: New York, New York  
July 10, 2008